



Billing Code: [9110-23-P]

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2012-0006]

Waiver of Debt

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

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SUMMARY: FEMA is providing notice of its implementation of the Disaster Assistance Recoupment Fairness Act of 2011 (Public Law 112-74) (DARFA). DARFA provides the Administrator of FEMA with the authority to waive certain debts arising from improper payments provided to disaster survivors for disasters declared between August 28, 2005, and December 31, 2010.

DATES: FEMA's waiver procedures are effective February 13, 2012.

ADDRESSES: "FEMA Directive: Waiving Debts Pursuant to the Disaster Assistance Recoupment Fairness Act of 2011" can be viewed at [www.regulations.gov](http://www.regulations.gov) under Docket ID FEMA-2012-0006. Go to [www.regulations.gov](http://www.regulations.gov), click on "Advanced Search," enter "FEMA-2012-0006" in the "By Docket ID" box, and click "Search." A hard copy may be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Keith Turi, Federal Emergency Management Agency, Department of Homeland Security, 501 C Street, SW., Washington, DC, telephone (202) 646-3642 (this is not a toll-free number). If you have any questions regarding a Notice of Debt or recoupment action, please contact the

Recoupment Hotline at 1-800-816-1122. If you have a speech disability or hearing loss and use a TTY, call 1-800-462-7585 directly; if you use 711 or Video Relay Service (VRS), call 800-816-1122.

#### SUPPLEMENTARY INFORMATION:

Pursuant to the Debt Collection Improvement Act of 1996 (Public Law 104-134) and the Improper Payments Elimination and Recovery Act of 2010 (Public Law 111-204), as implemented by 31 CFR Part 901, 31 CFR 902.2, and 6 CFR Part 11, FEMA is required to recover funds improperly paid (overpayments). On March 15, 2011, FEMA published a notice in the Federal Register (76 FR 14039) that announced FEMA's recoupment process for collecting overpayments (debts) made in delivering temporary housing and other disaster-related individual assistance. This process provides individuals an opportunity to appeal a FEMA debt determination and, in some cases, to request an oral hearing.

Some members of Congress expressed concern about the fairness of FEMA collecting overpayments from disaster survivors when the overpayment was the result of FEMA error and where a significant amount of time had elapsed before FEMA provided actual notice of the debt. As a result of these concerns, Congress passed, and the President signed, the Disaster Assistance Recoupment Fairness Act of 2011 (Public Law 112-74) (DARFA). Pursuant to DARFA, FEMA may determine to waive a debt arising from improper payments provided to disaster survivors for disasters declared between August 28, 2005 and December 31, 2010 if:

- 1) The debt does not involve fraud, the presentation of a false claim, or misrepresentation by the debtor or any party having an interest in the claim; and

- 2) The assistance was distributed based on FEMA error; and
- 3) There was no fault on behalf of the debtor; and
- 4) The collection of the debt would be “against equity and good conscience.”
- 5) In addition, if all four conditions above are met but the debtor’s Adjusted Gross Income (AGI) is greater than \$90,000, FEMA may approve no more than a partial waiver.

FEMA may determine it would be against equity and good conscience to collect a debt where collection would cause serious financial hardship; where the debtor has spent the overpayment for the reason it was provided or other disaster related needs and has no present ability to reclaim the funds; more than 36 months have elapsed between the time FEMA awarded the assistance and the date final notification was provided to the debtor of the debt; and/or other personal circumstances exist where collection would be unconscionable.

If FEMA determines to waive a debt pursuant to the authority provided in DARFA, the debt will cease to exist, FEMA will cease further debt collection activity with respect to the debt waived, and reimburse any payments or fees previously paid on the debt. If FEMA determines that a debt is not waived, the debtor will be notified of payment options.

DARFA is a time-limited authority that only applies to very particular debts

arising from FEMA individual assistance overpayments for specific disaster events. It is thus extraordinary authority and the waiver process that results from it does not apply to debts arising from delivery of any other FEMA or other Federal assistance program.

Authority: Pub. L. 112-74; 31 U.S.C. 3701 et seq.

Dated: February 7, 2012

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W. Craig Fugate  
Administrator,  
Federal Emergency Management Agency.

[FR Doc. 2012-3208 Filed 02/10/2012 at 8:45 am; Publication Date: 02/13/2012]